

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Lincoln Diaz-Balart for Congress Committee and
Jose A. Riesco, as treasurer

)
)
)
)

MUR 5161

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

The Commission found reason to believe that Lincoln Diaz-Balart for Congress Committee and Jose A. Riesco, as treasurer ("Respondents" or "Committee") violated 2 U.S.C. §§ 434(b)(1), 441a(f), and 441b(a).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Lincoln Diaz-Balart for Congress Committee is a political committee within the meaning of 2 U.S.C. § 431(4).

21-04-405-1143

2. Jose A. Riesco is the treasurer of Lincoln Diaz-Balart for Congress Committee. He succeeded the Committee's previous treasurer, Ayuban Tomas, on November 8, 2000. Mr. Riesco was therefore not the treasurer of the Committee during the years 1993 through 1999.

3. No person shall make contributions to any candidate's authorized committee with respect to any election for federal office which, in the aggregate, exceed \$1,000. 2 U.S.C. § 441a(a)(1)(A). No candidate committee shall knowingly accept any contribution in excess of this limitation. 2 U.S.C. § 441a(f). Contributions which on their face or when aggregated with other contributions from the same contributor exceed the contribution limitations shall be refunded within 60 days, redesignated, or reattributed. 11 C.F.R. §§ 103.3(b)(3); 110.1(b)(2); 110.1(k)(3).

4. Political committees are prohibited from accepting contributions from corporations. 2 U.S.C. § 441b(a). Contributions that present genuine questions as to whether they were made by corporations may be, within ten days of receipt, either deposited or returned to the contributor. 11 C.F.R. § 103.3(b)(1). If deposited, the treasurer shall make best efforts to determine the legality of the contribution. *Id.* If the contribution cannot be determined to be legal, the treasurer shall refund the contribution within 30 days. *Id.*

5. Political committees must file periodic reports of receipts and disbursements. 2 U.S.C. § 434(a). Political committees are required to report: the amount of cash on hand at the beginning of the reporting period, 2 U.S.C. § 434(b)(1); receipts for the reporting period and calendar year, 2 U.S.C. § 434(b)(2); including the identification of contributors, 2 U.S.C. § 434(b)(3); disbursements for the reporting period and calendar year, 2 U.S.C. § 434(b)(4); including the identification of disbursement recipients, 2 U.S.C. § 434(b)(5-6); and total sums of

21-04-405-1144

contributions and expenditures for both the reporting period and calendar year, 2 U.S.C.

§ 434(b)(7).

6. Respondents accepted contributions from 18 individuals that exceeded the applicable contribution limitation by a total of \$17,700.

7. Respondents accepted 23 corporate contributions totaling \$10,630.

8. The Committee's January 1, 1997 beginning cash on hand was overstated by \$114,076, according to the Report of the Audit Division approved March 24, 2000.

9. The Committee's 1993 through 2000 reports also failed to accurately report receipts, disbursements, and cash on hand at the beginning and end of the reporting periods, as shown on the amended reports for those periods that the Committee has subsequently filed. The Committee also failed to fully identify contributors and disbursement recipients, as shown on the amended reports for 1993 through 2000.

V. The determinations in this matter are as follows:

1. Respondents accepted a total of \$17,700 in excessive contributions in violation of 2 U.S.C. § 441a(f).

2. Respondents accepted a total of \$10,630 of corporate contributions in violation of 2 U.S.C. § 441b(a).

3. Respondents overstated the Committee's January 1, 1997 beginning cash on hand by \$114,076 in violation of 2 U.S.C. § 434(b)(1).

4. Respondents failed to accurately report receipts, disbursements, and cash on hand in years 1993 through 2000, in violation of 2 U.S.C. § 434(b)(2-7). Respondents failed to fully identify contributors in years 1995 through 2000, in violation of 2 U.S.C. § 434(b)(3).

21-04-405-1145
STI-504-40-12

Respondents failed to fully identify disbursement recipients in years 1993 through 2000, in violation of 2 U.S.C. § 434(b)(3), (5) and (6).

5. The information in the amended Committee reports remains subject to the Commission's normal course of supervisory responsibilities, including those pursuant to 2 U.S.C. §§ 437g(a)(2) and 438(b).

VI. The Committee contends that it moved to correct the situation by taking the following measures:

1. The Committee retained a new treasurer, Jose A. Riesco, who immediately undertook action to reconcile the Committee's accounts and respond to the findings of the audit of the Committee for years 1997 and 1998.

2. The Committee voluntarily reviewed its accounts and records for the non-audit years 1993, 1994, 1995, 1996, 1999, and 2000 (which had not been the subject of the Commission audit) and voluntarily filed comprehensive amendments for each of these years.

3. The Committee reviewed its accounts and records for the audit years 1997 and 1998 and filed comprehensive amendments for each of these years.

4. The Committee refunded the excessive contributions and corporate contributions identified as received by the Committee and provided the Commission copies (front and back) of negotiated refund checks.

VII. Respondents will pay a civil penalty to the Federal Election Commission in the amount of thirty thousand dollars (\$30,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VIII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof

21.04.405.1146

has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

IX. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

X. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

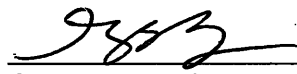
XI. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

2021-04-14 14:50:10

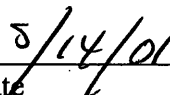
FOR THE COMMISSION:

Lois Lerner
Acting General Counsel

BY:




Gregory R. Baker
Acting Associate General Counsel

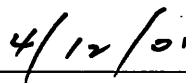


Date

FOR THE RESPONDENTS:



Jose A. Riesco
Treasurer
Lincoln Diaz-Balart for Congress Committee



Date

21-04-405-1148